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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 WELLS FARGO BANK NA et al.

11 Plaintiff,

12 v.

13 SEAN BRIDGEWATER et al.,

14 Defendants.
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Case No. CV 15-00283-AB (PLAx)

**ORDER REMANDING CASE TO
STATE COURT**

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17 On January 14, 2015, Defendants Sean and Tamika Bridgewater, having been
18 sued as tenant-Defendants in what appears to be a routine unlawful detainer action in
19 California state court, filed a Notice of Removal of that action to this Court. (Docket
20 No. 1.) For the reasons set forth below, the Court **REMANDS** this case for lack of
21 subject matter jurisdiction.

22 As a routine unlawful detainer action, Plaintiff Wells Fargo Bank NA could not
23 have brought this action in federal court initially because the complaint does not
24 competently allege facts creating subject matter jurisdiction, rendering removal
25 improper. 28 U.S.C. §1441(a); *see Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545
26 U.S. 546, 563 (2005).

27 First, under 28 U.S.C. §§ 1331, 1441(b), this unlawful detainer action does not
28 give rise to a federal question or substantial question of federal law because unlawful

1 detainer “is purely a creature of California law.” *Wells Fargo Bank v. Lapeen*, 2011
 2 WL 2194117 (N.D. Cal. June 6, 2011). Defendants’ reliance on the federal Fair Debt
 3 Collection Practices Act (“FDCA”), 15 U.S.C. § 1692 *et seq.*, is misplaced. As stated
 4 above, “[t]he presence or absence of federal-question jurisdiction is governed by the
 5 ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only
 6 when a federal question is presented on the face of the plaintiff’s properly pleaded
 7 complaint.” *Wayne v. DHL Worldwide Express*, 294 F.3d 1179, 1183 (9th Cir. 2002)
 8 (citing *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987)). “[T]he existence of a
 9 defense based upon federal law is insufficient to support jurisdiction.” *Id.* (citing
 10 *Franchise Tax Bd. of State of Cal. v. Constr. Laborers Vacation Trust for Southern*
 11 *California*, 463 U.S. 1, 10-12 (1983)). In this case, the only cause of action alleged in
 12 the complaint is for unlawful detainer under California law. Defendants’ anticipated
 13 defense under the FDCA federal statute does not provide a basis for federal
 14 jurisdiction. *Cf. Logan v. U.S. Bank Nat. Ass’n*, 722 F.3d 1163, 1164 (9th Cir. 2013)
 15 (affirming dismissal of the complaint because the Protecting Tenants at Foreclosure
 16 Act “does not create a private right of action allowing [plaintiff] to enforce its
 17 requirements”).¹ “[I]t is now settled law that a case may not be removed to federal
 18 court on the basis of a federal defense . . . even if the defense is anticipated in the
 19 plaintiff’s complaint, and even if both parties concede that the federal defense is the
 20 only question truly at issue.” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 393 (1987).

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 23 ¹ The Court also rejects Defendants’ assertion that Plaintiff is a debt collector.
 24 The statute defines “debt collector” as “any person who uses any instrumentality of
 25 interstate commerce or the mails in any business the principal purpose of which is the
 26 collection of any debts, or who regularly collects or attempts to collect, directly or
 27 indirectly, debts owed or due or asserted to be owed or due another.” 15 U.S.C. §
 28 1692a(6). Defendants make no allegation that Plaintiff fits within this definition, and
 according to the complaint, Plaintiff does not seek collection upon any debts owed to
 it but has simply commenced an unlawful detainer action against Defendants with
 respect to their possession of the premises to which Plaintiff asserts ownership.

1 Second, this unlawful detainer action does not give rise to diversity jurisdiction.
2 See 28 U.S.C. §§ 1332, 1441(b). The underlying complaint states that the amount in
3 controversy does not exceed \$10,000. Moreover, removal on the basis of diversity
4 jurisdiction is not proper because Defendants reside in the forum state. 28 U.S.C.
5 § 1441(b).

6 Accordingly, the Court: (1) **REMANDS** this case to the Superior Court of
7 California, Ventura County, 800 So. Victoria Avenue, Ventura, California 93009, for
8 lack of subject matter jurisdiction pursuant to 28 U.S.C. § 1447(c); (2) **ORDERS** the
9 Clerk to send a certified copy of this Order to the state court; and (3) **ORDERS** the
10 Clerk to serve copies of this Order on the parties.

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12 **IT IS SO ORDERED.**

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14 Dated: January 23, 2015

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17 HONORABLE ANDRÉ BIROTTE JR.
18 UNITED STATES DISTRICT COURT JUDGE
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